

AMENDED IN ASSEMBLY AUGUST 8, 2008

AMENDED IN SENATE MAY 13, 2008

**SENATE BILL**

**No. 1420**

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**Introduced by Senators Padilla and Migden**

(Principal coauthor: ~~Assembly Member DeSaulnier~~ coauthors: *Assembly Members DeSaulnier and Leno*)

**(Coauthors: Senators Alquist, Cedillo, and Romero)**

*(Coauthors: Assembly Members Coto and Solorio)*

February 21, 2008

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An act to add Section 114094 to the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1420, as amended, Padilla. Food facilities: nutritional information.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing this code. A violation of any of these provisions is punishable as a misdemeanor.

This bill would require each food facility in the state that meets specified criteria to provide nutritional information that includes, per standard menu item, the total number of calories, grams of carbohydrates, grams of saturated fat, grams of trans fat, and milligrams of sodium. It would also require the menu boards to include the total number of calories for each listed item. The bill would provide that, on and after July 1, 2009, a food facility that violates the provisions of the bill is guilty of an infraction, and would specifically provide that a violation of these provisions is not a misdemeanor. By creating an

infraction and adding a new local enforcement duty, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) Over the past two decades, there has been a significant  
4 increase in the number of meals prepared or eaten outside the  
5 home, with an estimated one-third of calories being consumed in,  
6 and almost one-half of total food dollars being spent on, food  
7 purchased from or eaten at restaurants and other food facilities.

8 (b) Increased caloric intake is a key factor contributing to the  
9 alarming increase in obesity in the United States. According to the  
10 Centers for Disease Control and Prevention, two-thirds of  
11 American adults are overweight or obese, and the rates of obesity  
12 have tripled in children and teens since 1980.

13 (c) Obesity increases the risk of diabetes, heart disease, stroke,  
14 some cancers, and other health problems.

15 (d) Broader availability of nutrition information regarding foods  
16 served at restaurants and other food service establishments would  
17 allow customers to make more informed decisions about the food  
18 they purchase.

19 (e) Three-quarters of American adults report using food labels  
20 on packaged foods, which are required by the federal Nutrition  
21 Labeling and Education Act of 1990.

22 (f) Availability of nutrition information regarding restaurant  
23 food assists consumers who are monitoring their diets or dealing

1 with chronic ~~diseases~~<sup>2</sup> *diseases*, such as cardiovascular disease  
2 and diabetes.

3 (g) Consumers should be provided with point of purchase access  
4 to nutritional information when eating out in order to make  
5 informed decisions involving their health and diet.

6 (h) It is the intent of the Legislature to provide consumers with  
7 better access to nutritional information about prepared foods sold  
8 at food facilities so that consumers can understand the nutritional  
9 value of available foods.

10 SEC. 2. Section 114094 is added to the Health and Safety Code,  
11 to read:

12 114094. (a) Each food facility in this state that operates under  
13 common ownership or control with at least 14 other food facilities  
14 with the same name in the state that offer for sale substantially the  
15 same menu items, or operates as a franchised outlet of a parent  
16 company with at least 14 other franchised outlets with the same  
17 name in the state that offer for sale substantially the same menu  
18 items, shall make nutritional information available to consumers  
19 for all standard menu items. This information shall include, but  
20 not be limited to, all of the following, per standard menu item, as  
21 usually prepared and offered for sale:

- 22 (1) Total number of calories.
- 23 (2) Total number of grams of saturated fat.
- 24 (3) Total number of grams of trans fat.
- 25 (4) Total number of grams of carbohydrates.
- 26 (5) Total number of milligrams of sodium.

27 (b) The nutrition information required in subdivision (a) shall  
28 be provided next to each item on the menu in a size and typeface  
29 that is clear and conspicuous. A page of the menu shall include,  
30 in a clear and conspicuous manner, the following statement:  
31 “Recommended limits for a 2,000 calorie daily diet are 20 grams  
32 of saturated fat and 2,300 milligrams of sodium.” If the food  
33 facility also uses a menu board, the food facility may limit the  
34 nutritional information listed on the menu board to the total number  
35 of calories per item in a size and typeface that is clear and  
36 conspicuous.

37 (c) Each food facility described in subdivision (a) that uses only  
38 a menu board shall provide on the menu board the total number  
39 of calories per item in a size and typeface that is clear and  
40 conspicuous. This type of food facility shall, upon request, make

1 the other nutritional information described in subdivision (a)  
2 available to consumers in writing at the point of sale.

3 (d) Menus and menu boards may include a disclaimer that  
4 indicates that there may be minimal variations in nutritional content  
5 across servings, based on slight variations in overall size and  
6 quantities of ingredients, and based on special ordering.

7 (e) The nutritional information required by this section shall be  
8 determined on a reasonable basis. For purposes of this section,  
9 “reasonable basis” means any reasonable means of determining  
10 nutrition information for a standard menu item, as recognized by  
11 the federal Food and Drug Administration, including, but not  
12 limited to, nutrient databases and laboratory analyses. A reasonable  
13 basis determination of nutrition information shall be required only  
14 once per standard menu item, provided that portion size is  
15 reasonably consistent and the ~~covered food facility~~ *food facility*  
16 *subject to this section* follows a standardized recipe and trains to  
17 a consistent method of preparation.

18 (f) Notwithstanding Section 113789, for purposes of this section,  
19 food facility does not include any of the following:

20 (1) Certified farmers’ markets.

21 (2) Commissaries.

22 (3) Grocery stores, except for separately owned food facilities  
23 to which this section otherwise applies that are located in the  
24 grocery store. For purposes of this paragraph, “grocery store”  
25 means a store primarily engaged in the retail sale of canned food,  
26 dry goods, fresh fruits and vegetables, and fresh meats, fish, and  
27 poultry. “Grocery store” includes convenience stores.

28 (4) Licensed health care facilities.

29 (5) Mobile support units.

30 (6) Public and private school cafeterias.

31 (7) Restricted food service facilities.

32 (8) Temporary food facilities.

33 (9) Vending machines.

34 (g) For purposes of this section, a standard menu item does not  
35 include food items that are on the menu for less than six months,  
36 condiments, other items placed on the table or counter for general  
37 use without charge, alcoholic beverages, or packaged foods  
38 otherwise subject to the nutrition labeling requirements of the  
39 federal Nutrition Labeling and Education Act of 1990.

1 (h) Commencing July 1, 2009, a food facility that violates this  
2 section is guilty of an infraction, punishable by a fine of not less  
3 than fifty dollars (\$50) or more than five hundred dollars (\$500),  
4 which may be assessed by a local enforcement agency. However,  
5 a food facility may not be found to violate this section more than  
6 once during an inspection visit. Notwithstanding Section 114395,  
7 a violation of this section is not a misdemeanor.

8 (i) If any provision of this section, or the application thereof, is  
9 for any reason held invalid, ineffective, or unconstitutional by a  
10 court of competent jurisdiction, the remainder of this section, shall  
11 not be affected thereby, and to this end, the provisions of this  
12 section are severable.

13 SEC. 3. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution for certain  
15 costs that may be incurred by a local agency or school district  
16 because, in that regard, this act creates a new crime or infraction,  
17 eliminates a crime or infraction, or changes the penalty for a crime  
18 or infraction, within the meaning of Section 17556 of the  
19 Government Code, or changes the definition of a crime within the  
20 meaning of Section 6 of Article XIII B of the California  
21 Constitution.

22 However, if the Commission on State Mandates determines that  
23 this act contains other costs mandated by the state, reimbursement  
24 to local agencies and school districts for those costs shall be made  
25 pursuant to Part 7 (commencing with Section 17500) of Division  
26 4 of Title 2 of the Government Code.